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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,431	12/30/2003	Brian Alan Grove	2043.101US1	9577
49845 7590 01/31/2007 SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER GART, MATTHEW S	
			ART UNIT 3625	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/749,431

Applicant(s)

GROVE ET AL.

Examiner

Matthew S. Gart

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-9,11-13,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-9,11-13,15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

- Claims 2, 6, 10 and 14 have been cancelled.
- Claims 1, 3-5, 7-9, 11-13 and 15-16 are currently pending in the application.

Drawings

The drawings were received on 12/20/2006. The Examiner accepts these drawings.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 7-9, 11-13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morin (U.S. Patent No. 6,748,422) in view of Coffman (U.S. Patent Application Publication No. 2004/0215467).

Referring to claim 1. Morin discloses a network-based commerce system including:

- A processor coupled to a memory through a bus (Morin: at least Fig. 1); and
- An auction price-setting process executed from the memory by the processor to cause the processor to receive a question associated with a listing for an item during the auction price-setting process (Morin: at least Fig. 4A), and to provide an answer to the question via a communications network (Morin: at least Fig. 7B-1, "409").

Morin does not expressly disclose wherein the auction price-setting process further causes the processor, when providing the answer to publish the question and the answer on the listing for the item.

Art Unit: 3625

Coffman discloses a network-based commerce system wherein the fixed price-setting process further causes the processor, when providing the answer to publish the question and the answer on the listing for the item (Coffman: paragraph 0136).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Morin to have included the teachings of Coffman in order to solve inefficiencies in managing high volume activities (Coffman: paragraph 0010).

Referring to claim 3. Morin further discloses a network-based commerce system wherein the auction price-setting process further causes the processor, when providing the answer to provide the answer to the question via an electronic mail message over the communications network (Morin: at least column 5, lines 34-58, "The recipient user will receive the message including the sending user's e-mail address so that the recipient user can respond if desired.").

Referring to claim 4. Morin further discloses a network-based commerce system wherein the auction price-setting process further causes the processor to receive the question from a bidder over the communications network (Morin: at least column 5, lines 34-58, "The recipient user will receive the message including the sending user's e-mail address so that the recipient user can respond if desired.").

Referring to claim 5. Morin further discloses a network-based commerce system including: a means for receiving a question associated with a listing for an item during an auction price-setting process; and a means for providing an answer to the question via a communications network (Morin: at least column 5, lines 34-58, "The recipient user will receive the message including the sending user's e-mail address so that the recipient user can respond if desired."): .

Morin does not expressly disclose wherein the auction price-setting process further causes the processor, when providing the answer to publish the question and the answer on the listing for the item.

Coffman discloses a network-based commerce system wherein the fixed price-setting process further causes the processor, when providing the answer to publish the question and the answer on the listing for the item (Coffman: paragraph 0136).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Morin to have included the teachings of Coffman in order to solve inefficiencies in managing high volume activities (Coffman: paragraph 0010).

Referring to claim 7. Morin further discloses a network-based commerce system wherein the means for providing includes providing the answer to the question via an electronic mail message over the communications network (Morin: at least Fig. 7B-1, "409").

Art Unit: 3625

Referring to claim 8. Morin further discloses a network-based commerce system of claim 5, wherein the means for receiving includes receiving the question from a bidder over the communications network (Morin: at least Fig. 7B-1, "409").

Referring to claims 9 and 11-12. Claims 9 and 11-12 contains limitations similar to those in claims 1, 3-5 and 7-8. Claims 9 and 11-12 are rejected under the same rationale as set forth above in claims 1, 3-5 and 7-8.

Referring to claims 13 and 15-16. Claims 13 and 15-16 contains limitations similar to those in claims 1, 3-5 and 7-8. Claims 13 and 15-16 are rejected under the same rationale as set forth above in claims 1, 3-5 and 7-8.

Response to Arguments

Applicant's arguments with respect to the rejection of claims 1, 3-5, 7-9, 11-13, and 15-16 under 35 U.S.C. 102(e) are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to the rejection of the claims under 35 U.S.C. 103 have been fully considered but they are not persuasive.

The Attorney argues that displaying a window or log of questions and answers posted at the auction web site is not publishing a question and an answer "on a listing for an item."

The Examiner notes, the system of Coffman may permit questions and answers to be posted at a Web site before a specific auction, which all suppliers invited to participate in the auction may access. Furthermore, the system permits the auction owner to prepare a pre-auction email to all suppliers without disclosing supplier identities to competitors; this e-mail contains general information for the suppliers and a supplier-unique user identification and password to access the auction site (Coffman: paragraph 0037). The questions and answers of Coffman are auction specific and associated with a listing for an item.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSG

Primary Examiner
January 28, 2007



MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600